

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015020710 (Primary)

v.

WHITTIER CITY SCHOOL DISTRICT,

WHITTIER CITY SCHOOL DISTRICT,

OAH Case No. 2015030328

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE

On February 6, 2015, Parent filed with the Office of Administrative Hearings a Request for Due Process Hearing on Student's behalf in OAH case number 2015020710 (Student's Case). The matter was originally identified as a dual hearing, but Student withdrew the expedited issues on March 2, 2015, and the matter is proceeding on the unexpedited issues. On March 5, 2015, Whittier City School District filed a complaint naming Parent on Student's behalf in OAH case number 2015030328 (District's Case). On March 16, 2015, the parties jointly filed a motion to consolidate the two cases and to continue the hearing dates in both cases.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve a common question of law or fact. Both cases involve the same time period, assessments and individualized education program. The witnesses and documentary evidence will be the same or similar. Therefore, consolidation furthers the interests of judicial economy and consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The hearing in District's case is set to begin on March 30, 2015. The hearing in Student's case is set to begin on April 2, 2015. The parties' request to continue the consolidated matter is the first request in both cases. Accordingly, because the parties have stipulated to agreeable dates that are within 90 days of the original hearing dates, the request to continue is granted.

ORDER

1. The parties' joint Motion to Consolidate is granted.
2. All dates previously set in Student's case and District's case are vacated and continued.
3. The parties' joint request for continuance is granted for good cause. The consolidated matters shall be heard as follows:

Prehearing conference: May 8, 2015, at 3:00 p.m. The parties shall submit prehearing conference statements in compliance with the Scheduling Orders issued in their respective cases no later than three business days before the PHC.

Due Process hearing: May 18, 2015, at 1:30 p.m., May 19-21, 2015, at 9:00 a.m., and continuing day to day Monday through Thursday unless otherwise ordered.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in Student's case, OAH Case Number 2015020710.

DATE: March 16, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings